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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,368	07/06/2001	Charles W. Degeorge	CJB-0104	7252

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EXAMINER
MENON, KRISHNAN S

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/900,368	DEGEORGE ET AL.
	Examiner Krishnan S Menon	Art Unit 1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claims 1-5 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Zievers et al (US 5,037,461).

Claim 1: Zievers teaches a filter (figure 1-5) comprising plurality of hollow filter elements (40) disposed on a hollow manifold (formed by plates 30) connected to hollow filtrate conduits (24), with manifold, conduits, elements etc are in fluid communication (see col 1 line 65 – col 2 line 65). Re Filter element having a liquid permeable wall from outside said element to the hollow interior, Zievers teaches a gas filter. However, the filter used being a porous ceramic filter is inherently permeable to liquids as well, as taught by Jordan (US 3,664,507 – col 1 lines 8-20). The claiming of a new use, new function or unknown property which is inherently present in the prior art does not necessarily make the claim patentable. *In re Best*, 562 F.2d, 1252, 1254, 195 USPQ 430, 433 (CCPA 1977). The limitation “for use in a three phase slurry bubble column” recites intended use. A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate

the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987)

Claim 2: elements are disposed vertically and laterally spaced on the manifold – see figures.

Claim 3: Manifold includes horizontal wall – plate 30.

Claim 4: Two horizontal walls, with elements arranged across the outer surface of both walls – Fig 1 shows four plates (30). Of these, the two middle plates together form a manifold between them, with elements projecting upward from the top plate, and downward from the bottom plate; filtrate outlet pipe 25 forming fluid communication to the manifold.

2. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sekellick (US 4,552,669).

Claim 1: Sekellick teaches a filter comprising (fig 1) plurality of hollow filter elements (14) disposed on a hollow manifold (formed by plate 20 and cover 30) connected to hollow filtrate conduits (48), with manifold, conduits, elements etc are in fluid communication (see fig), with filter permeable to liquid and not solids (see col 1 lines 5-12). The limitation "for use in a three phase slurry bubble column" recites intended use. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art

apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987)

Claim 2: elements are disposed vertically and laterally spaced on the manifold – see figures.

Claim 3: Manifold includes horizontal wall – plate 30.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zievers et al (US 5,037,461) in view of Sekellick (US 4,552,669).

Zievers teaches all the limitations of claim 4. Claim 5 adds the further limitation of sintered metallic filter elements, which Zievers does not teach, but Sekellick teaches (see col 8 lines 15-25). It would be obvious to one of ordinary skill in the art at the time of invention to use the teaching of Sekellick in the teaching of Zievers to use metal filters for the pneumatic hydropulsing arrangement for a variety of operation modes and applications as taught by Sekellick (see col 8 lines 1-15)

Response to Arguments

Applicant's arguments filed 7/21/04 have been fully considered but they are not persuasive.

In response to the applicants' argument that the intended use is different from that of the prior arts Zievers and Sekellick, see the rejection. The claims must recite unanticipated and non-obvious structural differences from the prior arts to be patentable.

In response to the argument that ceramic filters have small pore size and are not ideal for liquid filtration, and are well known to be very brittle – these are unsupported arguments and are only speculative.

In response to the argument that the Zievers and Sekellick filters are in a shell, whereas the applicants' filter is an open design, the claims do not recite unanticipated and unobvious structural limitations not found in the references. This, and the arguments that Sekellick's design is for recleanable filter, allows accumulation of cake, and would plug with catalyst which would prevent back-wash, etc are also beyond the scope of the claims. The structural limitations recited in the claims are anticipated by, or are found inherent in, the references.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krishnan S Menon whose telephone number is 571-272-1143. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Krishnan Menon
Patent Examiner

Walker
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